

# **THE COMMUNITY PUBLIC HEALTH LEGAL PREPAREDNESS INITIATIVE**

*Teleconference*

December 1, 2004

Susan K. Steeg  
Executive Director  
Public Health Law Association

# ***TOPICS***

- Role of state government in public health
- Laws and legal issues
- Houston's community legal preparedness workshop

# ***TEXAS HAS BROAD, TRADITIONAL STATUTORY POWERS REGARDING PUBLIC HEALTH ISSUES***

- Public health powers and duties
- Communicable disease code
- Health facilities and health professionals licensure
- Environmental and consumer health

# ***DECENTRALIZED PUBLIC HEALTH SYSTEM***

In the 254 counties in Texas:

- 148 local public health agencies
- 8 state regional offices
- 141 counties with NO local public health agency

# ***OVERVIEW OF THE STATE'S PUBLIC HEALTH ROLE IN TEXAS***

State agency charged with two intertwined public health responsibilities:

- ❑ Providing and supporting the essential public health services
- ❑ Supporting the health care safety net for children and adults with special health care needs and for the uninsured and underinsured

# ***STATE AGENCY PROGRAMS***

The state's public health programs can be described in five categories:

1. Disease Control and Prevention
2. Regulation/Consumer Protection
3. Healthcare Safety Net
4. Disease/Condition/Risk Specific
5. Public Health Preparedness

# ***PUBLIC HEALTH LAWS IN TEXAS***

- Local Public Health Reorganization Act
  - Chapter 121, Health and Safety Code
- Communicable Disease Prevention and Control Act
  - Chapter 81, Health and Safety Code
- Texas Disaster Act
  - Chapter 418, Government Code
- Emergency Management Assistance Compact
  - Chapter 778, Health and Safety Code

# ***LOCAL PUBLIC HEALTH REORGANIZATION ACT***

Structure for delivery of public health services

- Local Health Departments (LHDs)
  - City or County
- Public Health District (PHDs)
  - Multi-governmental
- DSHS Public Health Regions (PHRs)
  - Gaps

# ***LOCAL PUBLIC HEALTH REORGANIZATION ACT***

Health Authority responsible for administering state and local public health laws

- LHDs and PHDs are required to appoint a physician as the Health Authority
- City or county without a LHD or PHD may appoint a Health Authority
- A DSHS Regional Director serves as the Health Authority for those areas in a PHR that are not served by a Health Authority

## ***HEALTH AUTHORITY—HSC §121.021-029***

- Created as a physician to administer state and local laws relating to public health within a local government's jurisdiction.
- Appointed by city council or commissioner's court or health department/district director for 2 yr term.
- Duties: aiding the state with quarantine, sanitation enforcement, public health law enforcement, reportable diseases, vital statistics collection.
- Mandatory only in jurisdictions that receive funding from DSHS for essential public health services.

## ***POWERS AND DUTIES OF A LOCAL HEALTH DEPARTMENT – HSC §121.032***

- Permissive authority for the LHD to perform the duties that the city or county may perform
- Defines services that a LHD must provide — generally, the “essential public health services”

# ***ESSENTIAL PUBLIC HEALTH SERVICES***

## ***HSC §121.002***

- Monitoring population health, diagnosing & investigating health problems/hazards
- Informing/educating on health issues and mobilizing to solve health problems
- Developing health policy and enforcing laws and rules that support improvements in health
- Linking individuals and communities to appropriate health services
- Researching, evaluating, and training toward improved public health interventions

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

Requires reporting to Health Authorities from physicians, laboratories, and others

Reportable diseases are defined in DSHS rules  
25 T.A.C. Chapter 97

Provides authority for surveillance, investigation, and control of communicable diseases

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

Control measures includes the following:

- Isolation
- Quarantine
- Detention
- Restriction
- Disinfection
- Decontamination

Control measures can include treatments, such as:

- Immunization
- Chemoprophylaxis
- Preventive therapy
- Education

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

Control measures may be imposed on:

- Individuals
- Property
- Areas
- Conveyances

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

Control measures to an individual

- Voluntary compliance - The majority will follow the advice of the Health Authority
- Noncompliance - For the few, must seek judicial intervention to protect constitutional rights of the individual

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

- Health Authority Order requires reasonable cause to believe individual is ill with, exposed to, or carrier of a communicable disease and threat to public health
- Health Authority may not compel control measures, e.g. smallpox vaccination, quarantine
- Individual may be detained under a protective order issued by the court; probable cause hearing within 72 hours of detention
- Treatment may be compelled only by court order
- Jurisdiction: State District Court

# ***COMMUNICABLE DISEASE PREVENTION AND CONTROL ACT***

## Area Quarantine

- Health Authority issues upon approval of Commissioner of Health and local officials
- Restricts ingress and egress to an area within the Health Authority's jurisdiction
- Declared only after an outbreak
- Enforcement by cooperation with local law enforcement
- Violation of orders under an area quarantine may be a felony

# ***TEXAS DISASTER ACT***

Authorizes the Governor to exercise extraordinary powers in the event of a disaster

- Control of ingress and egress to and from a disaster area
- May suspend the provisions of any regulatory statute or rules that are necessary to cope with a disaster, e.g. licensing

# ***EMERGENCY MANAGEMENT ASSISTANCE COMPACT***

- Compact between U.S. States and Territories to provide voluntary mutual aid and assistance
- Ratified by 48 states and 3 territories, including Texas in 1997
- Provides that a person licensed by a state is deemed to be licensed by the state requesting assistance

# ***RECENT EVENTS HAVE CAUSED TEXAS POLICYMAKERS TO FOCUS ON PUBLIC HEALTH***

- 9/11
- Anthrax
- Monkeypox
- SARS
- Smallpox vaccination

# ***IN TEXAS, SEVERAL SIGNIFICANT LEGAL DEVELOPMENTS HAVE OCCURRED***

- Legislation has passed
- Community Legal Preparedness Workshop in Houston on March 26<sup>th</sup> will be 2<sup>nd</sup> pilot of CDC's Public Health Law Program

# ***LEGISLATION***

- Model State Emergency Health Powers Act
- Texas Legislation 2003
  - HB 9            Homeland Security
  - HB 627        Area Quarantine
  - HB 2292      Communicable Disease Control
  - SB 513        Liability
  - HB 4
  - HB 9

# ***HOMELAND SECURITY***

- Requires Governor to develop statewide homeland security strategy
- Requires coordination among and between local, state, and federal agencies and the private sector
- Creates Critical Infrastructure Protection Council to provide coordination for local and state implementation
- Confidentiality is created for certain information collected by government agencies related to homeland security

# ***AREA QUARANTINE***

- Expands authority of the Commissioner of Health to implement an area quarantine based upon an environmental or toxic agent in the environment
- Relies on the same procedures used for communicable disease control

# ***COMMUNICABLE DISEASE CONTROL***

- Amends the Communicable Disease Control and Prevention Act to clarify and allow for expeditious imposition of control measures
- Defines public health disaster and gives the Governor the authority to declare a disaster based upon the Commissioner of Health determination of an immediate threat from a communicable disease

# ***LIABILITY***

- Establishes immunity from civil liability
  - for actions taken without compensation in a disaster at the request of a government agency
  - for emergency care provided during an emergency
  - for actions by a state or local officer or volunteer who performs a homeland security activity at the request or under the direction of a government agency

# ***COMMUNITY LEGAL PREPAREDNESS***

- Enhance the readiness of members of the health care bar to play a positive role in the event of an actual or threatened healthcare emergency
- Train local government officials and their attorneys in implementing emergency measures

# **Community Public Health Legal Preparedness**

**“Houston Style”**

# ***GETTING STARTED***

- What are your objectives?
- Who is your target audience?
- Where do you have the conference?
- How do you plan the conference?



## ***DEFINING YOUR OBJECTIVE***

- Bring together attorneys representing public health and health care providers for dialogue and education on community legal preparedness

# ***DO THE RESEARCH***

Identify:

- Public health and health care attorneys in a major metropolitan area
- Presence of academic institutions with public health interests (e.g. law schools, schools of public health and medical schools)
- Existing organizations
- Prior community experience with catastrophic events



# ***HOUSTON SITE SELECTION***

- Two local health departments (city and county)
- TDH Public Health Regional office
- Over 70 general hospitals in the county
- Texas Medical Center



# ***HOUSTON SITE SELECTION***

- Three law schools, including Health Law & Policy Institute, University of Houston Law Center
- Health Care Section of Houston Bar Association
- Experience with major floods requiring evacuation of health care facilities

# ***CONFERENCE PLANNING***

- Contact identified key players to discuss workshop purpose and “recruit” planning committee
- Planning meeting hosted by City of Houston Health and Human Services Department
- Facilitated meeting (10 am to 3 pm) – workshop objectives selected, agenda planned and assignments



# ***PLANNING COMMITTEE MEMBERS***

- City health department director and legal counsel
- County health department attorney
- County attorneys representing the hospital district (inpatient and outpatient services)
- County attorney that handles litigation, including quarantine
- Health Law Section leadership representing hospital in-house counsel and large and small private firms engaged in health care law
- Health Law & Policy Institute faculty

# ***TOPICS & SPEAKER SELECTION***

- Public health roles and responsibilities — federal, state and local
- Public health legal challenges
- Physician's perspective on legal issues faced in a public health emergency
- Local public health and elected officials' perspective
- Case study panel presentation

# ***IMPLEMENTATION***

Program Director responsibilities:

- Preparing meeting minutes and action plan health legal challenges
- Regular follow up with committee members
- Determine session objectives for speaker recruitment
- Prepare CLE application

# ***LOGISTICS, LOGISTICS, LOGISTICS***

Health Law & Policy Institute – U of H Law Center:

- Provided facility and all set up (auditorium & three break out rooms)
- Provided volunteer help with registration, recording sessions, etc.
- Submitted CLE application and handle CLE submissions for credit
- Provided audio/video recording of sessions

# ***MEETING OBJECTIVES***

- Planning committee meeting was unforeseen win
- Attendance:
  - Health care attorneys < anticipated
  - Public Health attorneys and officials > anticipated
- Program quality exceeded expectations
- 4.75 CLE hours for \$20 fee to cover lunch and parking

# ***RESOURCES***

- CDC Public Health Law Program  
[www.phppo.cdc.gov/od/phlp/index.asp](http://www.phppo.cdc.gov/od/phlp/index.asp)
- The Model State Emergency Health Powers Act: A Checklist of Issues  
[www.ncsl.org/programs/health/modelact.pdf](http://www.ncsl.org/programs/health/modelact.pdf)
- Model Intrastate Mutual Aid Legislation — National Emergency Management Association  
[www.nemaweb.org](http://www.nemaweb.org)
- Emergency Management Assistance Compact  
[www.emacweb.org](http://www.emacweb.org)

# ***TEXAS RESOURCES***

- Communicable Disease Control Measures in Texas  
<http://www.tdh.state.tx.us/ophp/news/pubs/diseaseManual.pdf>
- Texas Statutes  
<http://www.capitol.state.tx.us/statutes/statutes.html>
- Texas Regulations  
<http://www.sos.state.tx.us/tac/>

# ***CONTACT INFORMATION***

**Susan K. Steeg**

Executive Director

Public Health Law Association

[ssteeg@phla.info](mailto:ssteeg@phla.info)

(512) 288-2385